

OA Reablement service	OA Day Care	OA Residential Care	Domiciliary Services	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
✓	✓	✓	✓	✓	✓	✓	✓

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# SEXUALITY AND INTIMATE PERSONAL RELATIONSHIPS

### POLICY

Cumbria Care has a positive, proactive and supportive attitude to the sexuality and intimate relationship needs of the adults in receipt of their care and support.

### PROCEDURE

#### **General**

Cumbria Care:

- Recognises that being treated with dignity and respect is the right of every human being
- Views the sexuality of our service users as a natural and expected part of their life experiences
- Recognises that the adults we support have individual relationship and sexual needs the same as everyone else
- Has a responsibility to ensure that sexual expression is accommodated within the law and does not devalue, stigmatise, exploit individuals or cause undue embarrassment to others
- Has a responsibility to ensure that sexual expression is exercised in an environment of consent as defined under the Sexual Offences Act 2003 and the Mental Capacity Act 2005
- Has a responsibility to safeguard service users from any form of abuse

#### **Joint Working With Health And Partner Organisations**

Where necessary, Cumbria Care will seek the specialist skills of our Health or other partners after consultation with, and with the agreement of, the service user or their representative / advocate.

#### **Rights and responsibilities**

Adults receiving support have the same rights as other adults, and with those rights come responsibilities.

They have the right to:

- Private time and space
- Choice of consenting partner of any gender identity
- Access to information and educational support
- Live their lives free from sexual harassment and abuse

They do not have a right to:

- Have sex with somebody who is not a fully consenting adult.
- Express their sexual feeling whenever and wherever they wish.

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It is accepted that all adults have a right to a private life that will include expressing their sexuality and engaging in intimate relationships.

## LEGAL CONTEXT

In the main, legislation relating to the sexual behaviour of adults we support is the same as for any other person. The law gives some adults extra protection against abuse or exploitation. Some adults do not have the capacity to be able to consent to a sexual relationship.

The issue of consent and capacity to consent is central to any intimate relationship. It should be presumed that everybody has this capacity, until it is proved otherwise:

- They may be able to do so in the future with some sex and relationship education, or
- They may never have the ability, or
- They may have significantly reduced mental capacity as a result of dementia or stroke damage.

Adults we support may need additional support in accessing their rights, and recognising their responsibilities. The manager will ensure a Health Care Professional e.g. Community Nurse, G.P or Sex therapist will provide appropriate support within the correct legal framework.

Sexual relationships and the capacity to consent to sexual activity can be a complex decision compared to other decisions e.g. decisions about what to wear.

The definition of consent is as follows:

“A person consents if he agrees by choice, and has freedom and capacity to make that choice” (Sexual Offences Act 2003).

Nothing in the Act permits a (Best Interest) decision to be made on someone’s behalf on any of the following matters:

- Consenting to marriage or a civil partnership
- Consenting to have sexual relations
- Consenting to divorce or the dissolution of a civil partnership
- Giving consent under the Human Fertilisation and Embryology Act 1990

## Training

Cumbria Care recognises that the awareness and training of staff and others in dealing with sexuality and intimate relationships is fundamental

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to providing effective and sensitive support to service users in their chosen lifestyles.

In addition, support and advice must be sought from appropriately trained and experienced Health Care Professionals when working with individual service users who have specific sexual / relationship needs.

Employees are expected to use supervision as a means of raising issues and concerns about sexuality and personal relationships with their line manager/supervisor.

## SUSPICIONS / DISCLOSURE OF ABUSE

- Where there is a suspicion of or a disclosure of abuse, the Safeguarding Adults procedures must be followed.
- If a person is persuaded to participate in sexual activity, when they are not fully aware of the implications and consequences of their agreement, then this can be abusive.
- The central issue in deciding if a relationship or activity is abusive is not dependent upon the nature of the activity, but rather whether all participants are freely consenting and have the capacity to consent.

Exceptions to this are:

- Where an individual's paid carer(s) are involved in sexual activity with him/her, in which case this would be unlawful,
- An incestuous relationship, this too would be unlawful.
- Adults we support with advanced dementia may no longer have the mental capacity to make informed decisions about whether to participate in sexual activity, and therefore be unable to give consent.

## CONFIDENTIALITY AND RECORDING

Staff must not share or discuss any information outside of appropriate work related forums, meetings, procedures or recording systems.

Where it is necessary to share information, this should be done with the consent of the individual or, where this is not achievable, it can be clearly demonstrated to be in the best interest of the individual and the reasoning must be recorded. This includes both written and verbal information.

Where it is necessary to hold a work discussion staff must always be aware of their surroundings e.g. mobile phone and open plan office.

A record of the person's capacity to consent and any strategies, risk assessments etc. to support the person with their relationships and sexuality should be detailed in the Person Centred Care / Support Plan.

Exceptional circumstances could be where there are disclosures of abuse, or where there is a threat to "life, safety or liberty". This should be

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dealt with through Safeguarding or Police procedures.

## WORKING WITH RELATIVES / CARERS

The area of sexuality is often a very difficult area for relatives and carers. There may be a lack of recognition of the family member's sexual needs and desires, and extreme resistance to practical expression of this sexuality.

Equally some relatives and carers will welcome the recognition of the needs and wishes of their family members.

Dilemmas arise for staff when it is known that actions taken may be at odds with the relative / carers views or wishes. This should be addressed through Multi-Disciplinary meetings and liaison with Social Workers, other professionals and the family / carers.

Appropriate risk assessments/ strategies will form the basis of any decisions.

## RELEVANT LEGISLATION

Equality Act 2010

Mental Capacity Act 2005

Safeguarding Regulations 2012

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